

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TERRELL B. SULLIVAN,

Defendant.

**4:18CR3151**

**MEMORANDUM AND ORDER**

The government has responded to Mr. Sullivan's § 2255 motion. The government is correct that Mr. Sullivan is not entitled to relief. First, Mr. Sullivan did not receive ineffective assistance of counsel. To the extent that Mr. Sullivan argues that his conviction for attempted delivery/possession with intent to deliver an exceptionally hazardous drug was not a felony controlled substance offense for purposes of the career offender provision, the case of *United States v. Garcia*, 946 F.3d 413, 417 (8th Cir. 2019) holds otherwise. Secondly, I can say without equivocation that I would have imposed the same sentence even if Mr. Sullivan's argument was accepted. Mr. Sullivan has a criminal history "as long as your arm." He richly deserves the sentence he received, and his excellent counsel did all that he could for Mr. Sullivan.

IT IS ORDERED that the defendant's motion to vacate under 28 U.S.C. § 2255 (Filing 72) is dismissed with prejudice. A separate judgment will be issued. No certificate of appealability has been or will be issued.

Dated this 1st day of February, 2021.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge